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HARRISBURG
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MARY E. D'ANDREA, CLERK
Per. 6
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IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

JASON ERIC BENSON,	:	CIVIL ACTION NO. 1:CV-00-1229
Plaintiff	:	
	:	(Judge Caldwell)
vs.	:	
	:	
THOMAS DURAN, et al.,	:	(Magistrate Judge Blewitt)
Defendants	:	

DEFENDANT, RONALD M. LONG, M.D.'S
MOTION FOR SUMMARY JUDGMENT

AND NOW, comes Defendant, Ronald M. Long, M.D., by and through his attorneys, Lavery, Faherty, Young & Patterson, P.C., and files this Motion for Summary Judgment and in support thereof, avers as follows:

1. Plaintiff, Jason Eric Benson, a pro se prisoner incarcerated at the State Correctional Institution-Smithfield (hereinafter "SCI-Smithfield"), initiated this civil action by filing a complaint on July 10, 2000 against

various officials and/or employees at the Adams County Prison and Dr. William J. Steinour, an Emergency Room physician at the Gettysburg Hospital, arising out of an incident which occurred on or about August 27, 1999, at the Adams County Prison.

2. By Order dated September 11, 2000, United States Magistrate Judge Thomas M. Blewitt granted Plaintiff's Motion for Leave to File an Amended Complaint and directed the Clerk of Court to serve the Amended Complaint on the newly added Defendants, Ronald M. Long, M.D., and William G. Ellien, M.D.

3. In his Amended Complaint, inmate Benson avers that Dr. Long violated Plaintiff's Eighth Amendment rights by discontinuing Benson's seizure medication, Dilantin, on June 4, 1999.

4. On October 10, 2000, Dr. Long filed a Motion to Dismiss Plaintiff's Complaint for failure to exhaust available administrative remedies.

5. On June 4, 2001, Magistrate Judge Blewitt issued a Report and Recommendation denying Dr. Long's Motion to Dismiss Plaintiff's Complaint for failure to exhaust available administrative remedies.

6. On June 18, 2001, Dr. Long filed Objections to the Report and Recommendation of Magistrate Judge Blewitt and a supporting brief, pursuant to Rule 72.3, Local Rules of Court.

7. By Order dated July 12, 2001, Judge Caldwell overruled Dr. Long's Objections and adopted Magistrate Judge Blewitt's Report and Recommendation.

8. On July 20, 2001, Defendant, Ronald M. Long, M.D., filed a Waiver of Reply to Plaintiff's Amended Complaint pursuant to 42 U.S.C. § 1997(e). In that responsive pleading, Defendant, Dr. Long, denied any and all liability to the Plaintiff and asserted all available affirmative defenses to the Amended Complaint.

9. Defendant, Ronald M. Long, M.D., has executed an Unsworn Declaration pursuant to 28 U.S.C. § 1746, setting forth his knowledge of the facts material to this litigation. A true and correct copy of Dr. Long's Unsworn Declaration is attached as Exhibit "A" in the Appendix of Exhibits in Support of Dr. Long's Motion for Summary Judgment and is incorporated by reference as if fully set forth at length herein.

10. During the course of discovery, the parties completed the deposition of the Plaintiff, Eric Benson. A true and correct copy of the

pertinent portions of inmate Benson's deposition transcript is attached as Exhibit "B" in the Appendix of Exhibits in Support of Defendant, Dr. Long's Motion for Summary Judgment.

11. The pertinent portions of Plaintiff's prison medical records regarding the treatment provided by Dr. Long at issue in this litigation is attached as Exhibit "C" in the Appendix of Exhibits in Support of Defendant, Dr. Long's Motion for Summary Judgment.

12. Pursuant to Rule 56(c), Federal Rules of Civil Procedure, summary judgment is appropriate when there are no genuine issues of material fact and the moving party is entitled to a judgment as a matter of law.

13. There are no genuine issues of material fact and Moving Defendant, Dr. Long, is entitled to summary judgment as a matter of law on Plaintiff's Eighth Amendment claims.

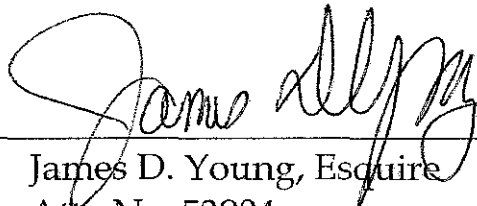
14. The record is devoid of any evidence establishing that Moving Defendant, Dr. Long, exhibited deliberate indifference to any serious medical need of the Plaintiff with respect to the treatment provided at SCI-Smithfield.

WHEREFORE, Defendant, Ronald M. Long, M.D., respectfully requests this Honorable Court grant his Motion for Summary Judgment and enter judgment in favor of Defendant Long and against the Plaintiff.

Respectfully submitted,

Lavery, Faherty, Young &
Patterson, P.C.

By: _____



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Attys for Defendant,
Ronald M. Long, M.D.

DATE: _____

11/15/2001

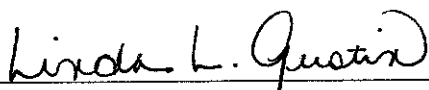
CERTIFICATE OF SERVICE

I, Linda L. Gustin, an employee with the law firm of Lavery, Faherty, Young & Patterson, P.C., do hereby certify that on this 15th day of November, 2001, I served a true and correct copy of the foregoing DEFENDANT, RONALD M. LONG, M.D.'S MOTION FOR SUMMARY JUDGMENT via U.S. First Class mail, postage prepaid, addressed as follows:

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Linda L. Gustin